

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF CORPORATION)	APPEAL NO. 06-A-2206
OF THE PRESIDING BISHOP OF THE CHURCH OF)	
JESUS CHRIST OF LATTER-DAY SAINTS from the)	FINAL DECISION
decision of the Board of Equalization of Twin Falls)	AND ORDER
County for tax year 2006.)	

CHARITABLE PROPERTY EXEMPTION APPEAL

THIS MATTER went before the Board in written form. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Attorney Gary L. Meikle represented the Appellant. Prosecuting Attorney Grant P. Loebbs represented Respondent Twin Falls County. This appeal is taken from a decision of the Twin Falls County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RP11S18E040000A.

The issue on appeal whether subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-602C, the charitable corporation exemption.

The decision of the Twin Falls County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$20,440, and the improvements' valuation is \$124,445, totaling \$144,885. Appellant request a full exemption under Idaho Code § 63-602C.

The subject property is a 158 acre welfare farm located in Twin Falls County, Idaho and owned by Corporation of the Presiding Bishop of the Church of Jesus Christ Latter-day Saints (CPB), which is a 501(c)(3) charitable organization under Federal law. CPB's stated purpose is the production, storage, and distribution of food and other commodities and services for the poor and needy. The subject farm is part of a larger integrated welfare system that includes storehouses, production projects (including farms), processing facilities, thrift stores, employment

centers, and family services offices in locations throughout the United States.

Included on subject is a one-acre homesite upon which a residence is attached. There are also several outbuildings on the property, including; grain bins, a machine shop, a cinder block shop, and a metal shop.

The residence is leased by the farm manager who is an employee of CPB. The County granted an exemption for the farmland and grain bins, however, denied exemption for the residence and three shop structures.

Appellant claimed the residence qualified for exemption under Idaho Code because it was exclusively used and was incidental to and reasonably necessary for the accomplishment of the charitable purposes of the organization.

Appellant argued it was necessary for the farm manager to live on the farm in order to take care of any crop-related issues as they arise. Appellant claimed in order to effectively operate a farm, constant vigil must be maintained concerning irrigation, pest control, and other factors that could potentially damage crops.

It was also noted the rent paid by the farm manager was included in his compensation package; meaning, the monthly rent amount was added to his monthly salary, which he then turned around and paid to the organization under the terms of the lease agreement. Appellant stated, if payment of rent was the controlling factor for denying the exemption, CPB could simply decrease the manager's salary by the amount of rent due, and charge no rent. Appellant also noted the rent proceeds were used for the maintenance and upkeep of the premises and as such, contended no profit or commercial benefit was being realized by the organization.

Regarding the three shop structures that were denied exemption, Appellant again argued they were incidental and reasonably necessary to accomplish the charitable purpose of the

organization. Appellant mentioned having these facilities onsite afforded considerable savings in both repair costs and downtime that would be incurred if machinery had to be transported to and from a commercial repair shop. They also provided protection from outdoor elements such as weather, that could accelerate the deterioration of the equipment.

Respondent defended the assessment of the residence on the grounds that receiving rent transformed the charitable nature of the property to that of a commercial activity. As such, it was not being used “exclusively” for the charitable purpose for which the organization was established. Respondent also stated, “...the [farm manager] is obviously in this business for commercial reasons and is not himself a charitable organization”, which was reasoned to further support the position that the charitable exemption is not applicable. Failing such exclusive use in addition to the commercial character of the lease, Respondent concluded the residence was properly denied an exemption.

Respondent then argued the three shops were merely conveniences and bestowed only an incidental benefit on the farm and therefore, not essential to the farm operation. The same was also asserted regarding the residence.

Lastly, Respondent claimed that Appellant failed to meet the needed burden of proof that the structures were necessary and used exclusively for the charitable purposes of the organization.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Central to this case is Idaho Code § 63-602C, which states:

The following property is exempt from taxation: property belonging to any fraternal, benevolent, or charitable corporation or society, the World War veteran organization buildings and memorials of this state, used exclusively for the purposes for which such corporation or society is organized; provided, that if any building or property belonging to any such corporation or society is leased by such owner or if such corporation or society uses such property for business purposes from which a revenue is derived which, in the case of a charitable organization, is not directly related to the charitable purposes for which such charitable organization exists, then the same shall be assessed and taxed as any other property, and if any such property is leased in part or used in part by such corporation or society for such purposes the assessor shall determine the value of the entire building and the value of the part used or leased for commercial purposes. If the value of the part used for commercial purposes is determined to be three percent (3%) or less than the value of the entirety, the whole of said property shall remain exempt. If the value of the part used for commercial purposes is determined to be more than three percent (3%) of the value of the entirety, the assessor shall assess such proportionate part of such building including the value of the real estate as is so leased or used for such purposes, and shall assess the trade fixtures used in connection with the sale of merchandise; provided however, that the lease or use of any property by any such corporation or society for athletic or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums or club rooms within the purposes for which such corporation or society is organized, shall not be deemed a business or commercial purpose, even though fees or charges be imposed and revenue derived therefrom.

Statutes granting exemptions, which exist as a matter of legislative grace, are strictly construed against the taxpayer and in favor of the state. Sunset Memorial Gardens v. Idaho State Tax Commission, 80 Idaho 206, 327 P.2d 766 (1958). The burden is on the claimant taxpayer to clearly establish a right of exemption and the terms of the exemption must be so specific and certain as to leave no room for doubt. An exemption will not be sustained unless it is within the spirit as well as the letter of the law. Bistline v. Bassett, 47 Idaho 66, 272 P.696 (1928).

Additionally, the courts are bound by the statute and cannot create or extend by judicial construction an exemption not specifically authorized. Canyon County v. Sunny Manor, Inc. 106 Idaho 98, 675 P.2d 813 (1984); Sunset Memorial Gardens v. Idaho State Tax Commission, 80 Idaho 206, 327 P.2d 766 (1958). Moreover, unless a contrary purpose is clearly indicated, ordinary words will be given their ordinary meaning when construing a statute. Bunt v. City of Garden City, 118 Idaho 427, 430, 797 P.2d 135, 138 (1990). In construing a statute, courts will “ascertain and give effect to the purpose and intent of the legislature, based on the whole act and every word therein, lending substance and meaning to the provisions.” The Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Ada County, 123 Idaho 410, 415; 849 P.2d 83, 88 (1993).

To qualify for a charitable exemption, Idaho Code § 63-602C requires the organization must be charitable and must use its property exclusively for the charitable purposes for which it was designed. Sunset Gardens 80 Idaho 206 at 218.

Respondent acknowledged that CPB is a charitable organization under the applicable standards so the remaining question is how the organization's subject property is being used.

Respondent charged that receiving rent for the residence was a commercial activity prohibited for charitable organizations by Idaho Code. On this point, Respondent relied on a court decision which held, “we find nothing ambiguous in this portion of the statute [Idaho Code § 63-602C] – if any building or property belonging to a charitable organization, or any part of such building or property, is leased, to anyone, then the building or property is subject to assessment and taxation” Bogus Basin Recreation Association v. Boise County Board of Equalization, 118 Idaho 686, 688 (1990). Respondent reasoned that because the residence was leased to the farmer, the above test was satisfied and the exemption was properly denied.

Bogus Basin involved a charitable organization that leased portions of its properties to commercial entities. In the present case, the subject residence is being leased to the manager of the charitable organization's farm. While, the farm manager himself is not a charitable organization, he works for CPB, a charitable organization; in furtherance of its stated charitable purposes.

As correctly referenced by Appellant, the Idaho Supreme Court in the past has granted a charitable exemption to an organization that leased office space in its building to members of its organization. In Boise Central Trades & Labor Council, Inc. v. Board of Ada County Commissioners, the court held, "[w]orking through [Idaho Code § 63-602C], it is clear the legislature intended to exclude from exemption only those portions of an otherwise exempt property which are leased or used for commercial purposes." 122 Idaho 67,72; 831 P.2d 535, 540 (1992). The court went on to say, "[a]s far the renting of the Labor Temple to the members of the Labor Council, we conclude that such is not a leasing for 'commercial purposes' within the meaning of the statute. The renting of offices to the Labor Council's own members is analogous to the renting of rooms for residence halls or dormitories which has expressly been deemed not to be a commercial purpose under Idaho Code § 63-602C." Id.

In the case at bar, CPB is a charitable organization that decided to lease a portion of its property to a member of its organization, the farm manager. As stated in *Boise Central* this does not rise to the level of "commercial purposes" contemplated by the Legislature in drafting the charitable exemption statute. Furthermore, as noted earlier, the rent paid by the farm manager is built in to the compensation package.

Respondent referred to the court in Evangelical Lutheran Good Samaritan Society v. Board of Equalization of Latah County, 119 Idaho 126 (1990), which stated, "an incidental benefit

bestowed upon a community does not constitute a public benefit for tax exemption purposes.” Id. at 133. Respondent argued the three shops only bestowed an incidental benefit on the farm and were not necessary for operating the farm, therefore, do not qualify for any exemption.

At a certain point a property and its use is directly tied and fundamentally incorporated into a greater or primary use. It is clear the farm itself provides a significant benefit to the general community. This greater good could not be realized without the sum of its parts. While the shop structures may individually only contribute a small portion to overall operation, taken together with everything else, they combine to serve the broader charitable goal of CPB, which is to care for the poor and needy. Furthermore, nothing in the record suggests a commercial benefit is being derived, nor has it been shown the structures are used for anything other than the furtherance of the organization’s stated goals. In fact, the affidavit of the farm manager specifically states, “[t]he shops and sheds are used exclusively for charitable purposes in connection with the operation of the Welfare Farm.” From the evidence presented in this case The Board finds that subject properly qualifies for a charitable exemption under Idaho Code. Accordingly, the decision of the Twin Falls County Board of Equalization is reversed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Twin Falls County Board of Equalization concerning the subject parcel be, and the same hereby is reversed to allow a charitable exemption as applicable under Idaho Code § 63-602C for the 2006 tax year.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 27th day of April, 2007.